



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 19, 1997

Mr. Tim Curry  
Criminal District Attorney  
Office of the Tarrant County Criminal District Attorney  
Fort Worth, Texas 76196-0201

OR97-2513

Dear Mr. Curry:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Texas Open Records Act. Your request was assigned ID# 110957.

The Tarrant County Criminal District Attorney's Office (the "district attorney") received a request for the "prosecuting attorney's files in 25 pending criminal cases." You have submitted to this office for review a representative sample of documents responsive to the request. You assert that the requested information is excepted from disclosure pursuant to sections 552.101, 552.103, and 552.108 of the Government Code.

We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). The records submitted to this office concern allegations of child abuse. Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. Thus, we assume the other records at issue all concern allegations of child abuse.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 552.101 of the Government Code in conjunction with Family Code § 261.201 prohibits disclosure of the requested information to the general public. This Family Code provision reads in pertinent part as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

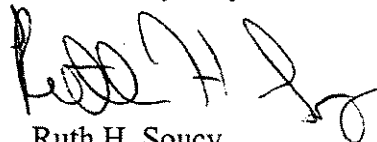
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201. The information submitted to this office consists of reports, records, communications, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Because you have not cited any specific rule that the district attorney has adopted with regard to the release of this type of information, we assume that no such rule exists. Given that assumption, the requested records are confidential pursuant to section 261.201 of the Family Code. *See* Fam. Code § 261.201(a). Accordingly, the district attorney must withhold these records.<sup>1</sup>

We note that the file contains medical records of an injured child. Medical records may be released only as provided under the MPA. Access to medical records is pursuant to the MPA not the Texas Open Records Act. Open Records Decision No. 565 (1990). We note that Section 5.08(j)(3) of the MPA requires that any subsequent release of medical records be consistent with the purposes for which the district attorney's office obtained the records. Open Records Decision No. 565 (1990) at 7.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/SAB/ch

Ref: ID# 110957

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<sup>1</sup>Because we conclude that you must withhold the requested records under the Family Code, we need not address the other exceptions that you claim. We note that if these records are not representative of the other records at issue, you should contact this office.

Enclosures: Submitted documents

cc: Mr. Mike Rivera Ortega  
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(w/o enclosures)